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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,190	01/25/2002	Louis T. Fike	FIKEL.58570	5318
27629	7590	10/03/2003	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP 200 OCEANGATE, SUITE 1550 LONG BEACH, CA 90802			MACKEY, JAMES P	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/057,190	FIKE, LOUIS T.	
	Examiner	Art Unit	
	James Mackey	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 6 is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 5, 7 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5-02</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The disclosure is objected to because of the following informalities: the missing application information on pages 2 and 9 of the specification should be inserted.

Appropriate correction is required.

2. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 8 repeats the claim limitations of claim 2; however, since claim 8 indirectly depends from claim 2 (via claim 7 which depends from claim 4 which depends from claim 2), claim 8 does not further limit the subject matter of claim 7.

3. Claims 5, 7 and 9 are objected to because of the following informalities: in claims 5 and 7, "the edges of each plate is" is grammatically incorrect and should be changed to --the edges of each plate are--; and in the preamble of claim 9, "that includes comprising" is unclear.

Appropriate correction is required.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 14 (the last line of the claim), "the tread segments can be slid vertically out of their respective cavities" is indefinite, since the only cavities recited in the claim are the cavities which receive the elongated plates of the shields, and therefore the claim is unclear as to which cavities the tread segments are slid vertically out of. For purposes of examination, it will

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be assumed that the above phrase should read --the elongated plates can be slid vertically out of their respective cavities--. Claim 10 is rejected due to its dependence on indefinite claim 9.

6. Claims 9 and 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 1-7 are allowed.

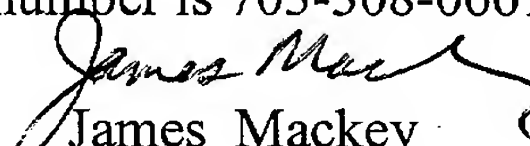
The prior art of record does not teach or fairly suggest the combination as recited in claims 1 and 9 wherein a tear resistant shield is secured to the center portion of the outer surface of each tread segment, the shield being formed of a non-metallic material having a lower coefficient of friction than the material of the bowl.

Gulka et al. (U.S. Patent 5,676,980; col. 7, lines 57-62), Hilke et al. (U.S. Patent 4,741,683; col. 2, lines 8-12, and col. 3, lines 47-53) and MacMillan (U.S. Patent 3,778,203; col. 4, lines 8-12) are considered to be the closest prior art of record, each disclosing a wear resistant shield material between the tread segments and the closing ring, but none of the prior art of record teaches or suggests providing a tear resistant shield formed of a non-metallic material having a lower coefficient of friction than the material of the bowl, as claimed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


James Mackey
Primary Examiner
Art Unit 1722

9/26/03

jpm
September 26, 2003